

(Sept 1999)

When Not to File:

Percolating underground water is not subject to the permit procedure unless it is the underflow of a surface stream or is otherwise flowing in a subterranean stream with a known and definite channel. One who proposes to pump percolating ground water (with the exceptions noted) should not file an application.

A permit is not required for the proper exercise of a riparian water right or small stockponds build before 1969.

Riparian rights will vest with CDF when CDF's fee-owned parcel is contiguous to a stream or a body of water or if, at the time of CDF's acquisition of a water easement grant, the point of diversion, the pipeline right-of-way, and the point of use are all on lessor's land.

When to File:

An application should be filed well in advance of, but after definite plans have been formulated for, construction of diversion works. Filing of an application cannot serve to reserve water for an indefinite future use. Requests for undue delay in final disposition of an application will be denied.

All applications are for permits to appropriate unappropriated water, and all permits are issued subject to vested rights. For the Water Resource control Board to approve an application, unappropriated water must be available to supply the applicant. Water in many streams has already been fully appropriated during the dry season of the year. If there is doubt whether unappropriated water is available, the Board's staff should be consulted before an application is filed.

There may be times during the authorized diversion season when no unappropriated water is available. The holder of a permit should be prepared to accept responsibility for diverting only to the extent that, and at such times as, will not impair the prior rights of others, regardless of the amount or season named in his permit. Likewise, the holder must defend his right if others impair it. A water right is a property right and the owner has the same obligation to defend it against encroachment as in the case of any other kind of property.

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